



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,818	12/03/2003	Janis I. Ferrell	1755.0	4111

22497 7590 05/27/2004

LARSON AND LARSON
11199 69TH STREET NORTH
LARGO, FL 33773

EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
----------	--------------

3632

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/726,818

Applicant(s)

FERRELL, JANIS I.

Examiner

Jon A Szumny

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>02/19/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

This is the first office action for application number 10/726,818, Tableware Clip-On Device, filed on December 3, 2003.

Information Disclosure Statement

Receipt is acknowledged of Form PTO-1449, Information Disclosure Statement, which has been reviewed by the Examiner.

Claim Objections

Claim 3 is objected to because of the following informalities:

In line 2, "shaft" should be --shaft,--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

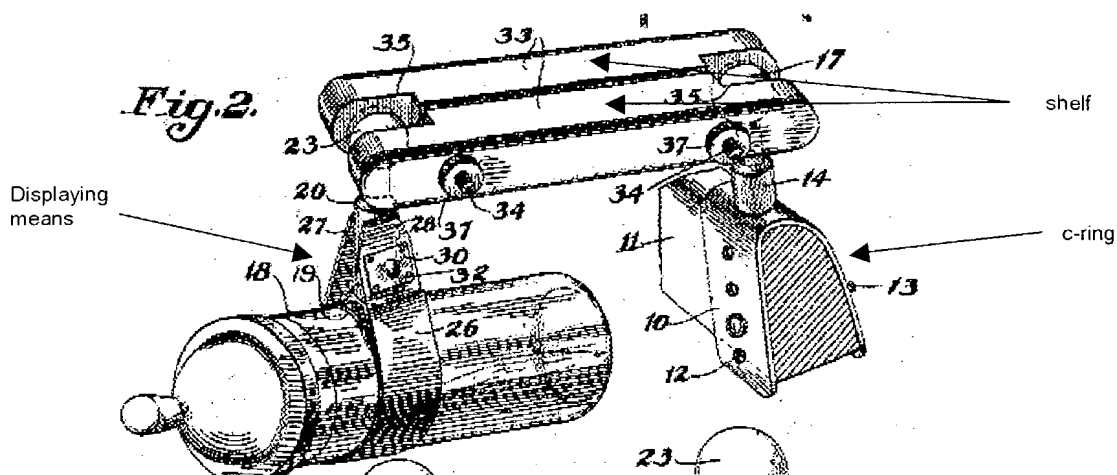
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent number 1,590,227 to Britton.



Britton '227 discloses a clip-on device (above) comprising a c-ring (above) integral with a rearwardly (depending upon a user's specific reference point) extending shaft (15,16, "integral" is defined in Merriam Webster's Collegiate Dictionary - 10th Edition as "formed as a unit with another part," so clearly the ring is integral with the shaft), wherein a distal end of the shaft is connected to a ball (17), a means (36) for movably gripping the ball and supporting a shelf (above), and a displaying means (above), wherein the gripping means is a frictionally engaging partial circular member, wherein the displaying means is a clamping device mounted on the shelf (via 22, 23 and 36).

Claim Rejections - 35 USC § 103

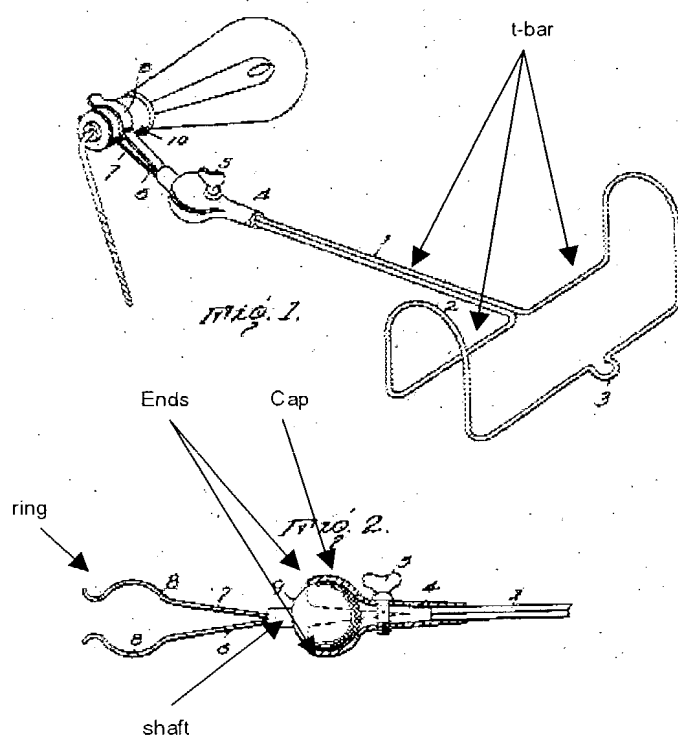
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3632

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes

'894.



Barnes '894 discloses a clip on device (above) comprising a ring (above) integral with a shaft (above, utilizing same definition of "integral" from above) extending away from a back end of the ring, the shaft connected to a ball (9) at a point distal from the ring, a partially circular cap (above) supporting a t-bar (above) on an exterior surface distal from an opening between a pair of ends (above) on the circular cap, the t-bar supporting a pair of spreadable lips (above, they are inherently "spreadable" since the

Art Unit: 3632

wire can be "bent", see lines 42-44), wherein the ring is partially a c-ring, and partially a v-ring. However, Barnes '894 fails to specifically teach the ring to be a c-ring. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the ring of any of numerous shapes, including a c-shaped ring, so long as it still securely fastens to an object, since the particular shape claimed by the applicant is nothing more than one of numerous shapes that an ordinary artisan provides for using routine experimentation based on its suitability for the intended use of invention. See In Re Daily, 149 USPQ 47 (CCPA 1976).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes '894 in view of U.S. Patent number 4,796,307 to Vantine.

Barnes '894 teaches the previous invention failing to specifically divulge the c-ring; shaft, t-bar and spreadable lips to be made from a molded high strength polymer. Nevertheless, Vantine '307 discloses a clip type member (figure 2) comprised of a molded high strength polymer (column 3, lines 29-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the c-ring, shaft, t-bar and spreadable lips of the clip-on device of Barnes '894 of a molded high strength polymer as in Vantine '307 since doing so would naturally provide for a low-cost, lightweight and sturdy material, in addition to the fact that doing so is well known in the art of clip-on devices.

Allowable Subject Matter

Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 2, the prior art as applied against claim 1 failed to further specifically teach the ball to be supported by an axially mounted pin attached at one end of the shaft.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nuernberg '085, Martin '148, Kinnebrew '478, Murdock '836, Ballas '312, Besek, Jr. '117 and Price '654 teach various clip on type devices with balls and caps.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

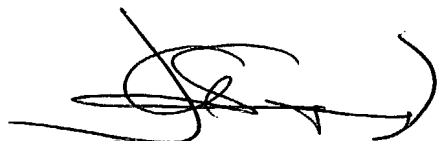
The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Application/Control Number: 10/726,818

Page 7

Art Unit: 3632

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read 'Jon Szumny', with a large, stylized flourish extending from the end of the signature.

Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
May 24, 2004